

1 think, Judge, when you see the -- this is a very skimpy one,
2 but when you see we get into audited financial statements
3 which provide the details, operating expenses, this, that
4 and the other thing, and I think when we get into the bowls
5 of these in terms of the issue of whether the station in the
6 first half of the license term was more or less financially
7 improvident in the second half of the license term, so I
8 think it's relative.

9 JUDGE SIPPEL: You're saying what the -- you mean
10 you don't disagree with the bottom line. You're saying that
11 the itemized expenses are relative for purposes of testing -
12 -

13 MR. BECHTEL: Some of them may be, and my next
14 series of exhibits is going to be their annual employment
15 proposals that show the number of employees they had. I
16 think that these two are relevant and certainly they thought
17 the bottom line figures were relevant, and I really -- I'm
18 serious, until you read a financial statement you don't know
19 what those bottom line figures are.

20 JUDGE SIPPEL: Well, it depends on what purpose
21 you are reading it, you're reading the numbers. But my
22 question to you is, your position is, is that there are
23 expensive items in here that are relevant to your -- to the
24 position of Adams that you're challenging.

25 MR. BECHTEL: Program costs, et cetera.

1 JUDGE SIPPEL: What do you intend to do with
2 those? Do you intend to question this witness about them?

3 MR. BECHTEL: I intend to write findings.

4 JUDGE SIPPEL: Well, I'm asking in terms of
5 additional evidence. What I am trying to ascertain is how
6 much time do you intend to spend on these documents?

7 MR. BECHTEL: There is no cross-examination on it,
8 and -- well, I'm limited by the universe of what I'm looking
9 at.

10 JUDGE SIPPEL: That's right.

11 And in addition to this, this being the Statement
12 of Income, No. 33 for identification, you also have -- you
13 have nothing else or do you have anything else relating to
14 the account? We're talking about accounting here.

15 MR. BECHTEL: Well, I will have the number of
16 employees they have and their positions.

17 JUDGE SIPPEL: Okay, that's a different record.

18 MR. BECHTEL: That's right.

19 JUDGE SIPPEL: It's not an accounting record per
20 se.

21 MR. BECHTEL: That's coming in too.

22 JUDGE SIPPEL: Okay. Mr. Hutton?

23 MR. HUTTON: I object. I think it's pointless to
24 introduce this or any other financial statement in the case,
25 and I also think it's, you know, potentially harmful to the

1 station to have this kind of thing on the public record.

2 JUDGE SIPPEL: You mean there is some question of
3 privacy here or privilege? I don't know.

4 MR. HUTTON: Well, they operate in a competitive
5 market. I don't know if their competitors would want to see
6 this or not.

7 JUDGE SIPPEL: 1989?

8 MR. HUTTON: But there is no point in introducing
9 this if he's not going to quarrel with our figures.

10 JUDGE SIPPEL: No, he's not quarreling with your
11 figures. He's saying that the elements that constitute the
12 makeup of the figures -- I'm paraphrasing -- but will show
13 some element of mismanagement or some element of
14 overspending or improper allocation of resources. That's
15 the gist of the argument that I am hearing.

16 MR. HUTTON: All right.

17 JUDGE SIPPEL: Which could be relevant.

18 MR. HUTTON: It would be relevant if you assume
19 that Mr. Bechtel is in a better position than the station to
20 decide how to spend money.

21 JUDGE SIPPEL: All right. Well, that's why they
22 have reply findings.

23 MR. HUTTON: I'm sorry?

24 JUDGE SIPPEL: I say that's why there are reply
25 findings.

1 MR. HUTTON: My point is that if we keep
2 extraneous useless information out of the record in the
3 first place, we won't have to deal with extraneous useless
4 information in the findings.

5 JUDGE SIPPEL: Okay, I understand that, but
6 sometimes you have to be patient with me because I sometimes
7 have to go through this to find out whether or not it's
8 extraneous, and it's hard for me to do it without putting it
9 in the context of evidence and findings. But I understand
10 what you are saying and you are making very good points.

11 Let me hear from Mr. Shook on this.

12 MR. SHOOK: Your Honor, at this point I am more in
13 agreement with Mr. Hutton in the sense that there may be a
14 story here, but right now this isn't being compared to
15 anything. All we see is that it matches the bottom lines
16 that are reflected in Mr. Parker's testimony for the year
17 1989.

18 Well, without a comparison to what is going to
19 happen in 1990 and beyond, which we haven't gotten to yet
20 and may never get to, this information is essentially
21 meaningless.

22 JUDGE SIPPEL: Do you want to reply to that, Mr.
23 Bechtel?

24 MR. BECHTEL: No, I have stated my position.

25 JUDGE SIPPEL: Are we going to see anymore or is

1 this it for --

2 MR. BECHTEL: No, I have it for every year.

3 JUDGE SIPPEL: Beg your pardon?

4 MR. BECHTEL: I'm going to identify documents for
5 every year. As I indicated at the onset, this is a very
6 skimpy one, but for the last two years it's an audited
7 statement.

8 JUDGE SIPPEL: '89, '90, '91, '92, '93 and '94,
9 you're going to offer the same type of evidence?

10 MR. BECHTEL: I'm going to offer what I stated,
11 yes.

12 JUDGE SIPPEL: Well, that would be your
13 comparatives. I would have to wait to see it though. I
14 mean, I'm not in a position now to do anything other than
15 agree with Mr. Hutton.

16 Well, we'll get them marked.

17 MR. BECHTEL: Thank you, sir.

18 MR. BECHTEL: As Adams 34 --

19 MR. SHOOK: Your Honor, you said marked. I take
20 it you didn't make your ruling yet in terms of --

21 JUDGE SIPPEL: No.

22 MR. SHOOK: -- what is received or not?

23 JUDGE SIPPEL: No, no.

24 MR. SHOOK: Okay.

25 JUDGE SIPPEL: There hasn't been a ruling yet.

1 I'm considering these right now as a proffer, but we have to
2 mark them so that the record shows what the proffer is.

3 MR. BECHTEL: Adams 34 for identification, I
4 distributed a document entitled "Reading Broadcasting, Inc.
5 Financial Report, December 31, 1990," which I have hand-
6 numbered having six pages.

7 JUDGE SIPPEL: This is a 1990 report, financial
8 report; is that correct?

9 MR. BECHTEL: That's correct, sir.

10 THE WITNESS: What's the number on this one?

11 JUDGE SIPPEL: This one is going to be Adams No.
12 34 for identification.

13 (The document referred to was
14 marked for identification as
15 Adams Exhibit No. 34.)

16 MR. BECHTEL: And Adams for identification 35,
17 distributing a document entitled "Reading Broadcasting, Inc.
18 Financial Report (Reviewed) December 31, 1991." This one
19 following the cover and a content sheet is numbered pages 1
20 through 15.

21 JUDGE SIPPEL: The reporter will mark this
22 document, this 15-page document, as Adams Exhibit 35 for
23 identification.

24 //

25 //

1 (The document referred to was
2 marked for identification as
3 Adams Exhibit No. 35.)

4 MR. BECHTEL: Adams 36 for identification Reading
5 Broadcasting, Inc. Financial Report (Reviewed) December 31,
6 1932, cover sheet and table of contents, 15 pages.

7 JUDGE SIPPEL: You mean 1992?

8 MR. BECHTEL: 1992.

9 JUDGE SIPPEL: How many pages?

10 MR. BECHTEL: Numbered 1 through 13.

11 JUDGE SIPPEL: The reporter will mark that
12 document, that 15-page document, Financial Report for 1992,
13 as Adams 36 for identification.

14 (The document referred to was
15 marked for identification as
16 Adams Exhibit No. 36.)

17 MR. BECHTEL: Adams 37 for identification, the
18 caption is "Reading Broadcasting, Inc. Financial Report
19 (Reviewed) December 31, 1994."

20 JUDGE SIPPEL: Do you have the number of pages
21 there?

22 MR. BECHTEL: Nineteen. And I should -- well, I
23 will distribute it and then I'll explain.

24 //

25 //

1 (The document referred to was
2 marked for identification as
3 Adams Exhibit No. 37.)

4 MR. BECHTEL: The explanation I wanted to state
5 here is that you will notice that we didn't have a 1993
6 report. We were advised by Reading Broadcasting in
7 discovery that there is no December 31, 1993, report as
8 such. However, a student of these documents can find the
9 '93 figures in the comparative columns in the 1994 report.

10 JUDGE SIPPEL: What page would that -- where would
11 those comparative columns be found?

12 MR. BECHTEL: I'm sorry, sir.

13 JUDGE SIPPEL: Where would the comparative columns
14 be found?

15 MR. BECHTEL: Okay. If you go to, for example --

16 JUDGE SIPPEL: Oh, I see.

17 MR. BECHTEL: For most of this stuff, it's
18 comparative.

19 JUDGE SIPPEL: I see.

20 JUDGE SIPPEL: Well '94 - '93. Well, I mean, they
21 are actually reporting '94 and '93 of the same -- of the
22 same items, same line items, right? Current assets, cash,
23 trade receivables, other.

24 MR. BECHTEL: We just don't have the benefit of
25 their notes for '93.

1 JUDGE SIPPEL: Well, I mean, we're not going to
2 conduct an audit.

3 MR. BECHTEL: I have no questions of this witness
4 on any of these. And without further argument or supporting
5 comment, I offer them in evidence, Adams Exhibits 33 through
6 37.

7 JUDGE SIPPEL: Well, would you take one of these
8 financial statements and show me a line item that is
9 relevant to what your argument is? Any one of them, just
10 pick one out.

11 MR. BECHTEL: Okay, let's go to 1993 and 1994,
12 page 4.

13 JUDGE SIPPEL: That's No. Adams 37?

14 MR. BECHTEL: Yes, page 4. And look at Partel,
15 Inc. travel and entertainment, consulting fees, other
16 expenses. If you look at payroll, commissions and selling
17 expenses, at least those.

18 JUDGE SIPPEL: Okay, and what can you argue from
19 those?

20 (Pause.)

21 JUDGE SIPPEL: Mr. Bechtel, are you looking for
22 something or was my question not --

23 MR. BECHTEL: I'm sorry. I thought I answered it.

24 JUDGE SIPPEL: I didn't hear your answer.

25 MR. BECHTEL: Start again. I apologize.

1 MR. COLE: Your Honor, he may not have heard the
2 question.

3 JUDGE SIPPEL: Well, let me ask my question again.

4 You have listed on page 4 of Adams No. 37, I asked
5 you what was significant items that you would raise in your
6 argument or in your points, and you pointed to Partel travel
7 and entertainment, other expanses, consulting fees, and then
8 you pointed to commissions and selling expenses.

9 And then my next question was what do you intend
10 to do with that information.

11 MR. BECHTEL: Well, I gave you a couple of others.
12 I intended to give you a couple of other items --

13 JUDGE SIPPEL: Well, I'm just looking for one for
14 illustration.

15 MR. BECHTEL: Commissions, payroll.

16 JUDGE SIPPEL: Payroll, all right.

17 MR. BECHTEL: All right. I would take items that
18 I could identify with staff and payroll cost and selling,
19 and I would spread them across the five or six years. I
20 would then get the staff across the five years, six years,
21 and then I would hopefully show that, if anything, they
22 spent more on programming at the beginning than they did at
23 the end, and they said, well, the problem was at the
24 beginning we were handicapped because we were bankrupt. I
25 know they had more staff at the beginning, and it's that

1 rudimentary, but based upon the exhibit material with just
2 the two figures -- three figures -- I can do that.

3 JUDGE SIPPEL: Now, what it sounds like you are
4 doing is you're litigating management and management
5 decision, and I'm not too happy going down that road.

6 What do you have to say about this, Mr. Shook?

7 MR. SHOOK: It's not there yet. He can't do
8 anything with it.

9 JUDGE SIPPEL: Well, I agree with Mr. Shook.
10 There is nothing we can do with this. There is nothing
11 meaningful that I can do with this. You can argue and say
12 that they should have had, with the number of people that
13 they had, they should have had fewer people and had less
14 expenses, but I can't do anything with that information. I
15 mean, I would argue and I can't do anything.

16 MR. BECHTEL: I disagree. It's not really -- all
17 I do is reargue. I wasn't -- that's not what I am doing. I
18 am impeaching their claim that bankruptcy precluded them
19 from putting money into their programming, and in fact what
20 happened was -- this would be my argument -- as time went on
21 they spent less on programming, and the bankruptcy didn't
22 have anything to do with their ability to put resources into
23 programming. That's the point where I am trying to go to.

24 And of course, under the Commission's renewal
25 policies, reinvestment in the program is a relevant issue on

1 license renewal papers.

2 But having said that, I've already argued more
3 than I think it's really worth. I'll take your rejection.
4 And then if I can convince you when I write findings, and
5 ask you to reverse it, I will.

6 JUDGE SIPPEL: Well, these have been marked for
7 identification, and as I say, I'm taking these as a proffer
8 but I'm rejecting them as evidence based on what you have
9 argued thus far. I hate to just leave financial records on
10 the record for the sake of a proffer.

11 What I'm going to do is -- I think the record is
12 clear as to what you proffered, and I have copies of your
13 proffer, counsel has copies of your proffer and the record
14 is going to be clear as to what your proffer is.

15 I'm going to instruct the reporter to return to
16 you these Exhibit Nos. 33 through 37, and, you know, if you
17 can convince at another time that the record should be
18 reopened to receive them or some other way that this
19 evidence is going to be useful to resolving this case, I'll
20 reconsider, but I am certainly not at all -- I see now
21 reason as to why the record should really receive this
22 evidence. It's cumbersome, it's bulky, and unless there is
23 a good reason, it's just nobody's business.

24 So I am going to sustain the objection. That's my
25 ruling. Ms. Reporter, you will return those exhibits. They

1 will pick them up at the end of the day.

2 Now, let's move on to the next segment.

3 (The documents referred to,
4 previously identified as Adams
5 Exhibit Nos. 33, 34, 35, 36
6 and 37, were rejected and not
7 received in evidence.)

8 MR. BECHTEL: Adams 38 for identification, please,
9 is a letter dated May 29, 1991, to the Commission from Paula
10 G. Friedman submitting Annual Employment Reports for the
11 year 1991. It is four pages in length.

12 JUDGE SIPPEL: Thank you. The reporter will
13 identify this for identification as Adams Exhibit No. 38.

14 (The document referred to was
15 marked for identification as
16 Adams Exhibit No. 38.)

17 JUDGE SIPPEL: Now, again, would you make a
18 proffer of relevancy with respect to what you intend to do
19 with this evidence?

20 MR. BECHTEL: Over and above what I have already
21 said, no.

22 JUDGE SIPPEL: Well, you intend to introduce then
23 these records of this type through the year 1994?

24 MR. BECHTEL: Yes, sir.

25 JUDGE SIPPEL: And then argue that there was a

1 misallocation of resources from this data?

2 MR. BECHTEL: No, of course not. Argue that there
3 were -- the staff was reduced in size over the period of the
4 license term rather than increases.

5 JUDGE SIPPEL: Well, that would be a misallocation
6 of resources, but in any event, that is much more specific
7 than my statement. And you say that -- all right, we heard
8 you.

9 What's your response to that, Mr. Hutton?

10 MR. HUTTON: Well, I don't think it proves what it
11 purports to prove in the sense that these annual employment
12 reports just take a snapshot during one period each year of
13 the number of employees at the station, and it can fluctuate
14 through the year.

15 Having said that, I wouldn't object to
16 introduction of the entire set of statistics through the
17 license term of the number of employees. I'm a little
18 troubled with beginning with 1991. It doesn't really give
19 the full picture.

20 JUDGE SIPPEL: Well, did you intend to go back to
21 beyond '91, Mr. Bechtel?

22 MR. BECHTEL: I intend to put in whatever I have.
23 I have -- this is identified as 1991, here is 1990, here is
24 1992, here is 1993, here is 1994. I thought I had one even
25 earlier than that signed by Dr. Aurandt. So they either go

1 from '90 to '94, or if I can find it, '89 to '94.

2 JUDGE SIPPEL: Was '89 not available? These are
3 all public documents aren't they?

4 MR. BECHTEL: I had it and I just can't find it
5 right now.

6 JUDGE SIPPEL: For 1989, you can't find it.

7 And you don't have any problem with these coming
8 in, in that fashion?

9 MR. HUTTON: Well, again, I think I have made the
10 point that I don't think it corroborates the line of
11 argument that Mr. Bechtel attempts to make. I think what
12 will happen, in effect, if you allow him to make that line
13 of argument is you will be getting sort of expert testimony
14 from a non-expert through their findings.

15 I mean, if they had wanted to have an expert come
16 and testify that the station was misallocating resources or
17 was not using employees the way you would expect a station
18 to do, then they might have a basis for making that line of
19 argument, but I don't think these documents lay that
20 foundation.

21 At the same time they are a matter of public
22 record, and I may find them useful for my own purposes, and
23 therefore I'm not going to object, but I'm going to tell you
24 that I think you will find that you are being offered in the
25 findings expert testimony for a non-expert witness in the

1 form of counsel for Adams.

2 JUDGE SIPPEL: Mr. Shook?

3 MR. SHOOK: Given the argument that's made with
4 the proffer, absent some witness testimony that ties or that
5 provides context for the figures as they change over time, I
6 see absolutely no purpose to receipt of the employment
7 reports, and I would object.

8 JUDGE SIPPEL: I'm going to sustain the objections
9 on two grounds: the ground that Mr. Hutton articulated with
10 respect to the need for at least an industry expert to come
11 in and put this matter together and give it some kind of
12 purpose, and secondly, you haven't -- you are not in a
13 position to offer a complete set of the universe, and '89 is
14 missing. The data coming in helter-skelter doesn't do any
15 good. And we have a witness on the stand and we have
16 business to do.

17 So I'm going to reject Adams Exhibit No. 38 for
18 identification for those reasons, and I'm going to require
19 that we move into another area, and I'm not going to hear
20 anything more on these employment reports. The reporter can
21 also return that Adams Exhibit 38 for identification.

22 (The document referred to,
23 previously identified as Adams
24 Exhibit No. 38, was rejected
25 from being put in evidence.)

1 JUDGE SIPPEL: So that the record is clear, we
2 don't need all that paper. Can we move into another area
3 now?

4 MR. BECHTEL: Yes, indeed.

5 BY MR. BECHTEL:

6 Q Directing your attention to past broadcast
7 experience.

8 A Mm-hmm.

9 Q Reading Broadcast experience in Exhibit No. --

10 JUDGE SIPPEL: This is Reading Exhibit 2 --
11 Exhibit 3. It's in Volume 1 of Reading's exhibits and it's
12 Reading Exhibit 3.

13 BY MR. BECHTEL:

14 Q With regard to Totum Broadcasting, Inc., the
15 licensee of the television station in Anchorage on the first
16 page.

17 A Yes.

18 Q And is the position of Adams that Mr. Parker,
19 having claimed positive benefits from his experience in
20 bankruptcies opens the door for evidence of negative
21 experiences in bankruptcies?

22 My sense is the Court has already closed the door
23 to that.

24 JUDGE SIPPEL: This sounds like something that I
25 ruled on in some detail.

1 MR. BECHTEL: I'm sorry?

2 JUDGE SIPPEL: This sounds like something that I
3 ruled on in some detail. No?

4 MR. BECHTEL: You ruled on a lack of grounds to
5 have a disqualification issue --

6 JUDGE SIPPEL: Right.

7 MR. BECHTEL: -- because it requires you to get
8 into the bankruptcy --

9 JUDGE SIPPEL: Right.

10 MR. BECHTEL: -- laws and work out whether what it
11 had done was proper or not. This is a second cousin to that
12 approach, and this is a bankruptcy in which Totum
13 Broadcasting Company was involved.

14 In anticipation that -- and I think, and I have
15 made the argument, and I think that once Reading
16 Broadcasting wants to take credit for positive things that
17 he has done in the bankruptcy field, I think we're entitled
18 as a matter of evidentiary response under the existing
19 issues to get into negative things that he has done in the
20 bankruptcy court.

21 And so what I have in the courtroom is a certified
22 copy of the bankruptcy records for Totum Broadcasting
23 Company, and it is my intention to identify and offer them
24 or to assert to you that they are an offer of proof that I
25 will carry forward on the record.

1 JUDGE SIPPEL: And what do you expect to show from
2 these records in the Totum proceeding? This is Totum
3 bankruptcy.

4 MR. BECHTEL: I expect to show that he and Mr.
5 Mattmiller in the administration of that station it went
6 bankrupt.

7 JUDGE SIPPEL: Well, am I -- let me see if I
8 understand. Are you saying that what was represented in
9 past broadcasting experience with respect to Totum is
10 materially inaccurate?

11 MR. BECHTEL: No, I'm not saying it's inaccurate.

12 JUDGE SIPPEL: Well, then, what would the purpose
13 of -- I mean it sounds like from what you're describing is
14 going to be a considerable amount of evidence that you want
15 to offer with respect to the Totum bankruptcy.

16 MR. BECHTEL: It's a notebook.

17 JUDGE SIPPEL: A notebook. From what you're going
18 to be asking some form of conclusions on a judgment basis?

19 MR. BECHTEL: Yes.

20 JUDGE SIPPEL: As to whether or not Mr. Parker and
21 his associates had acted in an efficient fashion or in a
22 worthwhile fashion, in an effective fashion in terms of
23 representing the interest before the Bankruptcy Court in
24 Totum's proceeding; is that --

25 MR. BECHTEL: I ask you to conclude that his

1 record in the bankruptcy area has negative aspects as well
2 as positive aspects.

3 JUDGE SIPPEL: Well, you are getting into the
4 bowls of bankruptcy procedure and bankruptcy law. And
5 again, without the benefit of an expert, I wouldn't feel
6 that I'd be in a position to do that. I couldn't do justice
7 to that kind of a record, I don't believe.

8 MR. BECHTEL: I am also, sir, tender in the record
9 of this proceeding a certified copy of the bankruptcy
10 records of Mr. Parker personally, bankruptcy proceedings in
11 which investors in some four other broadcasting ventures
12 were involved, and that you have seen didn't have a
13 certified copy of that before. As an offer of proof, I
14 stand prepared to put that into the record today.

15 JUDGE SIPPEL: What does the personal bankruptcy
16 have to do with Parker's experience in terms of taking
17 broadcast businesses out of bankruptcy? Personal bankruptcy
18 is something different than that, isn't it?

19 MR. BECHTEL: Sure, but his broadcast experience
20 is different there. He's giving you the good broadcast
21 experience he's had. He's had a victory over here, this,
22 that over here. What I am saying is that his broadcast
23 experience is flawed, and he has --

24 JUDGE SIPPEL: Well, you can cross-examine him on
25 this. He's right here on the stand.

1 MR. BECHTEL: I'm sorry?

2 JUDGE SIPPEL: I say you can cross-examine him
3 about this. He's right here on the stand.

4 MR. BECHTEL: Well, you ruled we couldn't get into
5 the issue.

6 JUDGE SIPPEL: What issue did I rule you couldn't
7 get into?

8 MR. BECHTEL: His personal bankruptcy.

9 JUDGE SIPPEL: Did I say that you couldn't ask
10 questions on cross-examination or did I say that I'm not
11 going to add an issue?

12 (Pause.)

13 BY MR. BECHTEL:

14 Q It's true, is it not, that at a time when you,
15 your personal bankruptcy in the State of Washington was
16 still pending before the court in September 1989, the
17 minutes of the board of directors of Reading Broadcasting
18 stated that a sale of the station was under consideration
19 which confirmed that your \$250 million Golden Parachute
20 provision -- Golden Parachute would apply to that?

21 MR. HUTTON: Objection; relevance. I don't
22 understand the connection with the personal bankruptcy.

23 JUDGE SIPPEL: Well, was there a reference in the
24 contract -- is this the reference in the contract to the
25 \$250,000 Golden Parachute in the management contract?

1 And the question is what you -- I'm not following
2 that question. Would you repeat the question? You're
3 asking the witness what?

4 MR. BECHTEL: The question is isn't it true that a
5 time while your personal bankruptcy was proceeding, but
6 still not terminated in the State of Washington, in Reading,
7 Pennsylvania the board of directors considering the sale of
8 the station, specifically the president, that your \$250,000
9 Golden Parachute would be honored.

10 JUDGE SIPPEL: Would be what?

11 MR. BECHTEL: Would be honored.

12 JUDGE SIPPEL: We have a relevancy objection.

13 MR. HUTTON: Your Honor, he's attempting to delve
14 into the same area that you dealt with in your ruling on the
15 motion to enlarge issues. He is essentially trying to show
16 or asking the witness if he had any assets that weren't
17 disclosed in the bankruptcy proceeding, and that's not
18 relevant and you ruled that it is not within your
19 jurisdiction, and I would ask you to strike the question.

20 JUDGE SIPPEL: Do you follow this, Mr. Shook?

21 MR. SHOOK: I'm trying. I'm afraid I'm not having
22 as much luck as Mr. Hutton.

23 JUDGE SIPPEL: Well, I don't have any problem with
24 cross-examination but it has to be a hook to this case, and
25 I don't see it there.

1 There are -- you are saying that you want to test
2 the adequacy of the representation about past broadcast
3 experience insofar as there were other bankruptcy -- other
4 broadcasting entities that were in bankruptcy that this
5 witness had assisted. Now, there would be some relevance in
6 terms of if you want to bring out through this witness that
7 the Totum Broadcasting, Inc. the licensee didn't really walk
8 out of bankruptcy the way that maybe this testimony would
9 like us to believe, I have no problem with that.

10 But I can't see any connection between personal
11 bankruptcy, which is not of a broadcasting nature, and the
12 issue of bankruptcy, that is, bringing Reading out of
13 bankruptcy in this particular case. There is no connection.
14 So I am going to sustain the objection.

15 MR. BECHTEL: Let me take a look at my document.

16 JUDGE SIPPEL: Go off the record a minute.

17 (Discussion off the record.)

18 JUDGE SIPPEL: Mr. Bechtel, excuse me. I'm sorry.
19 The witness has indicated that he would like a break, and it
20 certainly would be appropriate. It's almost ten after
21 three. Why don't we come back at 3:25. Do you want to go
22 off the record or do you want --

23 MR. SHOOK: It doesn't matter.

24 JUDGE SIPPEL: Go off the record.

25 (Whereupon, a recess was taken.)

1 JUDGE SIPPEL: All right, we are on the record.

2 I want to give Mr. Hutton's team a telephone
3 number. This is for the speaker phone for Mr. Kase's
4 testimony on Wednesday morning. He can reach us here at
5 area code (202) 418-0166, and our office manager will have
6 the telephone all set up and tell him to call some time
7 between 9:30 or 9:35, we're going to be looking for him.

8 MR. HUTTON: Okay.

9 JUDGE SIPPEL: And I take it then that when you
10 appear in court you will have a number where he can be
11 reached in case we have some kind of a situation here.

12 MR. HUTTON: I will. I have been a little busy
13 here, too busy to communicate with him, but I'll touch base
14 with him.

15 JUDGE SIPPEL: That's why I'm giving you 36 hours
16 notice.

17 MR. HUTTON: Thank you.

18 JUDGE SIPPEL: I understand that. I'm just trying
19 to think ahead a little bit.

20 All right, we are back on the record. Mr. Shook
21 has informed me that he's going to have enough questioning
22 to carry this witness over, and the witness has indicated
23 that he will be here -- you have indicated, right, that you
24 will be here tomorrow morning --

25 THE WITNESS: Yes, that's right.

1 JUDGE SIPPEL: -- at 9:30 to pick up?

2 THE WITNESS: Yes, sir.

3 JUDGE SIPPEL: So it's almost 3:30 now Our usual
4 closing time has been 4:00, but I'll stay a bit after 4:00
5 if we can finish up the Adams' cross this afternoon.

6 MR. BECHTEL: Well, I decline the invitation to
7 attempt further cross-examination on Totum Broadcasting, and
8 I don't think I had an invitation or the window was
9 insufficient to cross-examine Mr. Parker on his personal
10 bankruptcy.

11 I will state for the record that I have here two
12 documents; one a certified record of the bankruptcy of Totum
13 Broadcasting from the National Archives and Records
14 Administration, page 1 through 114; the certified record of
15 the bankruptcy, the personal bankruptcy of Mr. Parker,
16 National Archives and Records Administration, pages 1
17 through 81.

18 The personal bankruptcy case number is 8901970
19 Chapter 7, that's the Bankruptcy Court in Seattle. Totum's
20 is case number 3-85-00199 in the United States Bankruptcy
21 Court for the District of Alaska.

22 I do have a final question, then I'm done. I'm
23 directing the attention of the Court and counsel to Reading
24 Broadcasting Company Exhibit 11.

25 (Pause.)

1 MR. BECHTEL: I'm trying to find the one, I got it
2 now, marked 31, 1999, I guess it's the last one.

3 JUDGE SIPPEL: Let's go off the record.

4 (Discussion off the record.)

5 BY MR. BECHTEL:

6 Q I direct your attention to Exhibit 2, an ownership
7 report. It comes after that long exhibit and -- do you have
8 it?

9 A Yes.

10 Q Okay. Am I reading this correctly that as of the
11 date of this ownership report, you owned, owned 40.1723
12 percent of the issued and outstanding stock?

13 A That is correct.

14 Q And at the same time you had -- you have an
15 irrevocable proxy, irrevocable interest for 9.1205 percent
16 of the stock?

17 A That is correct.

18 Q If my addition is correct, I'd better check that,
19 this gives you 49.4133 percent of the stock either owned or
20 under a proxy, an irrevocable proxy; is that correct?

21 A If your addition is correct, yes. You add those
22 two figures together, it is what it is on that date.

23 Q It's a fact then, Mr. Parker, that you have de
24 facto and probably de jure control of the corporation?

25 MR. HUTTON: Objection. It asks the witness to

1 draw a legal conclusion.

2 JUDGE SIPPEL: Well, I'll sustain the objection as
3 to a compound question. Let's start with the date, and
4 back, Mr. Bechtel, and ask the witness if he understand what
5 that is, please.

6 BY MR. BECHTEL:

7 Q It's true, is it not, that you have de facto
8 control of the corporation, in fact control?

9 A I don't believe so, no.

10 JUDGE SIPPEL: Do you want to ask him the basis
11 for his answer or do you want to get into that?

12 MR. BECHTEL: I'm going to ask de jure, that's
13 easier.

14 BY MR. BECHTEL:

15 Q Do you know Mr. Massey, one of your stockholders?

16 A Of Reading Broadcasting?

17 Q Yes, sir.

18 A Yes, Mr. Massey is a shareholder.

19 Q You and he had cordial relations since he became a
20 shareholder?

21 A Sometimes they have been cordial. Sometimes they
22 have been totally at odds with one another. I think right
23 now we are at odds.

24 Q How about Mr. McCracken, is your relationship with
25 him cordial?

1 A Yes.

2 Q He's the executive vice president of the company,
3 isn't he?

4 A Yes, he is.

5 Q Runs the TV station?

6 A Yes, he does.

7 Q And works for you?

8 A He works for Reading Broadcasting.

9 Q Mr. McCracken has a 0.8341 percent interest. And
10 if he elected to vote with you, that would give you an
11 aggregate of 50.2674 percent.

12 A Are you asking in reference to the date of this
13 ownership report? If your figures are correct, I'm assuming
14 that would be correct.

15 Q You have done that arithmetic, haven't you?

16 MR. HUTTON: I'm sorry. I didn't hear the
17 question.

18 BY MR. BECHTEL:

19 Q I said you've done that arithmetic before, haven't
20 you?

21 A In terms of?

22 Q In terms of your holding of 49.292 percent, under
23 50 percent, but barely under 50 percent. That wasn't an
24 accident. You've done that arithmetic before, haven't you?

25 A I've done investing necessary to buy shares in the

1 corporation, yes.

2 Q What are the chances of Mr. McCracken and every
3 single other stockholder of Reading Broadcasting Company to
4 get together and every single one of them comes to a meeting
5 with their proxies, and outvotes you?

6 A It's happened twice. So in the 10-year period, 20
7 percent of the time.

8 Q And both times that was before you had Dr. Aurandt
9 irrevocable proxy, wasn't it?

10 A That's correct.

11 Q All right. So now we are back up to the 49
12 percent. Okay, let me ask a question this way.

13 In my opinion, the chances of an O. J. Simpson DNA
14 being wrong are good, there is a chance of every single one
15 of those people, including Mr. McCracken, coming together
16 and voting you out of the corporation. Is there a
17 difference?

18 MR. HUTTON: Objection.

19 JUDGE SIPPEL: Yes, I'll sustain. Let's keep O.
20 J. out of the case.

21 MR. BECHTEL: I don't have any further questions.

22 JUDGE SIPPEL: I'm only going to ask you two
23 things.

24 Was a calculated decision on your part to
25 purposely keep your ownership interest at 49 percent,

1 something between 49 percent and 50 percent? Yes, that's
2 my question.

3 THE WITNESS: No, Your Honor. But since the
4 filings made, I have sold some shares in the corporation. I
5 don't want to say a huge amount, but in the neighborhood of
6 two - three percent, and the reason for that was basically I
7 made an investment in the company when it needed money to
8 survive beyond what I wanted to, and I actually am in the
9 process of divesting a portion of my holding in the station,
10 not a huge number. I mean, I'm not like selling out. But I
11 am reducing that figure at this time.

12 JUDGE SIPPEL: Well, let me be a little bit more
13 sharp with the question then.

14 Was it by design on your part that you acquired at
15 the height of your ownership of Reading Broadcasting that it
16 was less than 50 percent?

17 THE WITNESS: Well, clearly -- that's a tough
18 question to answer because clearly --

19 JUDGE SIPPEL: It is really tough?

20 THE WITNESS: Well, if had been more than 50
21 percent, I wouldn't have acquired it without FCC approval.
22 I'm not -- and if the corporation had needed --

23 JUDGE SIPPEL: Well, that might be a reason enough
24 not to do it then.

25 THE WITNESS: No, I would have asked for the

1 approval and gotten it. I don't see any reason why the
2 Commission wouldn't have approved the -- except I couldn't,
3 I couldn't with the case since 1994 have had a transfer of
4 control. Since it was filed against by Adams, that would be
5 impossible. The Commission wouldn't have approved the
6 transfer because of the pending case.

7 JUDGE SIPPEL: Well, I'm still thinking that my
8 question is a pretty straightforward question to answer.
9 It's hard to conceive that by happenstance you ended up with
10 ownership of equity of just under 50 percent. Normally --
11 that's my observation.

12 And I ask you if you want to think about your
13 answer a little bit.

14 THE WITNESS: Well, let me say that had Adams
15 Communications not filed against Reading Broadcasting, my
16 answer may well have been different. Then there would have
17 been a different set of circumstances whereby -- I think
18 Reading Broadcasting is a good investment still today,
19 that's obvious.

20 JUDGE SIPPEL: Well, let me try it this way then.
21 If you had not -- did you intend to acquire over 50 percent
22 of Reading but you were blocked by the Adams application?

23 THE WITNESS: Not necessarily. If Adams'
24 application had not been there, I would have had a
25 substantial number of shareholders who would have wanted to

1 buy stock in the corporation to protect their own interest.

2 JUDGE SIPPEL: That has nothing to do with my
3 question.

4 THE WITNESS: Would I have -- okay, I guess I'd
5 better --

6 JUDGE SIPPEL: Yes, I guess you had better listen.

7 THE WITNESS: Yeah. Yeah.

8 JUDGE SIPPEL: All I am asking is very simple.

9 You know, investors -- people generally have investment
10 plans, particularly if you're putting that much money into a
11 company where you had that much stock and would be actually
12 operating the business in the context that you are, so you
13 had some kind of a business -- an investment plan.

14 And my question is a very simple one. Did you
15 have an investment plan to acquire more than 50 percent of
16 Reading but you were blocked by the competing application of
17 Adams?

18 THE WITNESS: No, sir.

19 JUDGE SIPPEL: Okay. And then the other question,
20 I think you pretty much answered it, but you really did
21 intend, didn't you, not to attempt to acquire more than 49
22 point something percent of the stock?

23 THE WITNESS: Absolutely. I didn't intend to
24 acquire that.

25 JUDGE SIPPEL: Okay. The other question I have is

1 you answered Mr. Bechtel's question very straightforward
2 that you have -- I'm paraphrasing now, but you have
3 concluded that you do not and did not exercise de facto
4 control over Reading management, the operation of Reading.

5 Am I correct in paraphrasing your answer?

6 THE WITNESS: That is correct, that I did not.

7 JUDGE SIPPEL: On what do you base that answer?

8 THE WITNESS: Well, you would have to know the
9 relationships of the various parties involved. Frank
10 McCracken is a friend of mine. He is executive vice
11 president of the company, but he argues with me
12 precipitously as an person in the world when he thinks he is
13 right, and I knew him from long -- we discuss it very --
14 nobody controls Frank is what I am trying to say.

15 JUDGE SIPPEL: Well, some people maybe argue can
16 turn too, it depends on who is making the call.

17 THE WITNESS: Well, I guess Frank isn't
18 intimidated by my barking.

19 JUDGE SIPPEL: But you don't need to intimidate
20 anybody to make the call?

21 THE WITNESS: That true, but that isn't my method
22 of operation or style. That's one of the reasons people
23 worked for me for many years is they have the right to argue
24 with me, and I try to bring -- because I don't exercise a
25 lot of day-to-day control, because right now I live in

1 Seattle, they are free to argue with me. In fact, I welcome
2 that, and I listen to what they say I guess is part of it.

3 JUDGE SIPPEL: Are you prepared to go into this
4 tomorrow?

5 MR. SHOOK: This particular aspect? I wasn't
6 going to explore what you are talking about right now, not
7 unless something comes to me tonight in my sleep. I have
8 different areas of concern.

9 JUDGE SIPPEL: Well, I'm just a -- I'm just a
10 little bit -- I'm just questioning that answer, but I don't
11 want to -- I don't want to reverse my role here and become a
12 cross-examiner.

13 Would you want to pursue this line? You can do it
14 tomorrow morning if it's too late tonight.

15 MR. BECHTEL: Sure.

16 JUDGE SIPPEL: Okay, let's pick up tomorrow
17 morning with this. What I want to do is I want to get your
18 testimony finished and get you off the stand. I don't want
19 to leave you on the stand with this -- what I think to be
20 maybe some question.

21 THE WITNESS: I would like that as well.

22 JUDGE SIPPEL: Is there anything else now that we
23 need to -- anything further? Do you want to do any redirect
24 or do you want to wait until tomorrow?

25 MR. SHOOK: Your Honor, perhaps you misunderstood

1 what I was saying. I mean, I wasn't going to explore the
2 particular aspects that you were talking about. I do have
3 three subject areas I would like to cover.

4 JUDGE SIPPEL: Oh, no, I know that. No, I didn't
5 mean to say that you didn't have anything for the witness.
6 I understand that completely. No, I was just wondering if
7 one of the three areas you had might have been, you know --

8 MR. SHOOK: No.

9 JUDGE SIPPEL: -- go into this topic.

10 MR. SHOOK: No.

11 JUDGE SIPPEL: Well, okay. Did you want to -- is
12 there some area that you can finish up in 10, 15, 20
13 minutes?

14 MR. SHOOK: I believe the one area I can complete
15 in 10 minutes or less.

16 JUDGE SIPPEL: Well, can we do that and then we
17 can finish up with that and then pick up tomorrow morning,
18 Mr. Bechtel can pick up this line of de facto control, and
19 then we will finish up.

20 MR. SHOOK: That would be fine with me.

21 JUDGE SIPPEL: All right?

22 MR. HUTTON: Sure.

23 JUDGE SIPPEL: Go ahead.

24 //

25 //

1 CROSS-EXAMINATION

2 BY MR. SHOOK:

3 Q Mr. Parker.

4 A Yes.

5 Q I would like you to take a look at Reading
6 Broadcast Exhibit 3.

7 JUDGE SIPPEL: That's the past broadcast
8 experience?

9 THE WITNESS: Okay, yes I'm there.

10 BY MR. SHOOK:

11 Q Did you have any role whatsoever in an entity
12 called Mount Baker Broadcasting Company?

13 A Yes, I did.

14 Q What role was that?

15 A I think I was president of Mount Baker
16 Broadcasting.

17 Q For what period of time?

18 A Well, from its inception to its demise, and I'm
19 sorry, I don't know the number of years on that.

20 Q For purposes of these questions, a rough time
21 period would suffice.

22 A Well, I think it was in existence for three or
23 four years, but again I'm -- we filed that application, we
24 carried it through, but I'm not -- I started my broadcast
25 business maybe in about 1981, so '81-82 it started, and I

1 think that project failed by 1985, somewhere in there.

2 Q What project was that?

3 A Mount Baker Broadcasting.

4 Q Right. What was Mount Baker Broadcasting --

5 A It had filed for an application for a TV station
6 in Ann Acordis, Washington.

7 Q It actually acquired the permit, correct?

8 A Yes, it did.

9 Q And then at some point it was no longer able to
10 retain the permit?

11 A Well, it's a long story, but in the end I think
12 the Commission ruled that we hadn't built in accordance with
13 the construction permit and cancelled it.

14 Q Now, Mount Baker is not reflected in your past
15 broadcast experience, is it?

16 A That is correct.

17 Q Is there any particular reason why that's the
18 case?

19 A I didn't consider that project as -- in terms of
20 broadcast experience of being -- I don't know how you would
21 put it. It was a failed project, so I didn't consider it as
22 one I wanted to claim meritorious credit for.

23 Q Well, in other words, it was an unfavorable
24 experience?

25 A I think you can say that, yes.

1 Q Are there any unfavorable experiences that aren't
2 listed here?

3 A In terms of the operation of a station, I don't
4 believe so.

5 MR. SHOOK: Your Honor, that's all I have in that
6 area. The other areas that I'm going to go into will take a
7 good deal longer.

8 JUDGE SIPPEL: All right. Do you want to redirect
9 on this one, Mr. Hutton, real quickly?

10 MR. HUTTON: I'd rather wait until we are all
11 done.

12 JUDGE SIPPEL: Until it's all done. Okay.

13 Anything further, Mr. Bechtel?

14 MR. BECHTEL: Not this afternoon, Your Honor.

15 JUDGE SIPPEL: I just want to caution that I am
16 inviting certainly the cross-examination in the area that I
17 have indicated, de facto control, but I'm not intending to,
18 I am not inviting, you know, an extensive amount of cross-
19 examination exhibits. I'm hoping --

20 MR. BECHTEL: I understand.

21 JUDGE SIPPEL: Okay. But I think maybe -- well,
22 very fine. I'm satisfied with leaving the record in this
23 fashion.

24 We will reconvene here tomorrow morning at 9:30
25 a.m. Thank you.

1 (Whereupon, at 3:55 p.m., the hearing in the
2 above-entitled matter was recessed, to reconvene at 9:30
3 a.m., on Tuesday, January 11, 2000.)

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FCC DOCKET NO.: 99-153

CASE TITLE: In Re: Applications of Reading Broadcasting

HEARING DATE: January 10, 2000

LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 1/10/00

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